

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
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Veronique FERRARI et al.	)	Group Art Unit: 1611
	)	
Application No.: 10/528,698	)	Examiner: Kevin S. ORWIG
	)	
§371 (c) Date: December 6, 2005	)	Confirmation No.: 4617
	)	
For: LIPSTICK COMPRISING A	)	
SEQUENCED POLYMER	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**VIA EFS WEB**

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign and non-patent literature documents are attached. Copies of the U.S. patents, patent application publications, co-pending applications and respective office actions are not enclosed as they are available on the Imaged File Wrapper of PAIR. The non-patent literature document, Aldrich was cited by the

Examiner in co-pending U.S. Patent Application No. 10/573,579, and accordingly, no copy is attached.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. *See also* M.P.E.P.

§ 2001.06(b). Accordingly, although Applicants are not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive Office Actions in co-pending applications on the attached form.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following is a statement regarding the non-English language documents:

1. **EP 1 043 345**: This document is believed to be related to U.S. Patent No. 6,692,733 B1 cited on the IDS Form PTO/SB/08 submitted with the Information Disclosure Statement filed January 7, 2008.
2. **EP 1 279 398**: This document is believed to be related to U.S. Publication No. 2003/0059392 A1 cited on the IDS Form PTO/SB/08 submitted with the Information Disclosure Statement filed January 7, 2008.

3. **EP 1 366 741**: This document is believed to be related to U.S. Publication No. 2004/0039101 A1 cited on the IDS Form PTO/SB/08 submitted with the Information Disclosure Statement filed January 7, 2008.

4. **EP 1 366 744**: This document is believed to be related to U.S. Publication No. 2004/0009136 A1 cited on the IDS Form PTO/SB/08 submitted with the Information Disclosure Statement filed January 7, 2008.

5. **FR 2 834 458**: An English language Derwent abstract of this document is listed on the attached IDS Form PTO/SB/08, and a copy of the abstract is submitted herewith.

6. **JP 10-506404**: Published as WO 96/10044, this document is not available except in the form of the PCT document. WO 96/10044 is believed to be related to U.S. Patent No. 6,280,713, cited on the IDS Form PTO/SB/08 submitted with the Information Disclosure Statement filed March 10, 2009.

7. **French Search Report for FR 04/03090**: This is the French Search Report for FR 04/03090 from which co-pending Application No. 11/089,210 (Attorney Docket No. 06028.0097-00) claims priority.

8. **French Search Report for FR 04/50572**: This is the French Search Report for FR 04/50572 from which co-pending Application No. 11/086,906 (Attorney Docket No. 05725.1424-00) claims priority.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine

that the cited document(s) do not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: September 24, 2009

  
By: \_\_\_\_\_

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